



UNITED STATES OF AMERICA Order 97-3-29  
DEPARTMENT OF TRANSPORTATION Served 3/25/97  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation  
on the 20th day of March, 1997

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Agreements adopted by the Tariff :  
Coordinating Conferences of the : Docket OST-97-2111  
International Air Transport Association : Docket OST-97-2139  
relating to passenger fares :  
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ORDER

Various members of the International Air Transport Association (IATA) have filed two agreements with the Department under section 41309 of Title 49 of the United States Code (the Code) and Part 303 of the Department's regulations. The agreements were adopted by mail vote for effectiveness on March 10, 1997, and April 1, 1997.<sup>1/</sup>

Both agreements modify the recently adopted fuel-related fare increases.<sup>2/</sup> The agreement in Docket OST-97-2111 corrects anomalies in certain Resolution 015b normal fare add-ons, used to construct normal fares between the U.S. and points in the North/Central Pacific, created by application of the fuel-related increases. The fuel agreement increased the Resolution 015b normal fare add-ons by two percent so as to maintain parity with domestic U.S. normal fares, which had been recently increased for fuel. U.S.-Japan normal fare add-ons, however, are specified in both one-way and round-trip amounts, because of the characteristics of the normal fare structure, with the round-trip amounts typically twice the one-way amounts. Due to rounding, application of the two percent increase to the individual add-on amounts has produced some roundtrip amounts that are less than twice the applicable one-way amount. This agreement corrects this by making all roundtrip

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<sup>1/</sup> IATA TC31 Telex Mail Vote 851, Docket OST-97-2111; and IATA TC31 Telex Mail Vote 855, Docket OST-97-2139. The agreements were filed with the Department on January 31 and February 18, 1997, respectively.

<sup>2/</sup> These fuel-related fare increases were submitted to the Department in Dockets OST-96-1983 and OST-96-2000, and conditionally approved by Order 96-12-32, December 24, 1996.

amounts twice the respective increased one-way amounts. Finally, the agreement in Docket OST-97-2139 reduces the fuel-related increase on all fares from Japan to two percent, rather than the original three percent, so as to improve prospects for securing the approval of the Japanese government.

We will approve the agreements. Based on the information submitted and other relevant material, we conclude that the agreements, as conditioned below, will not result in fares that are unlawful or injurious to competition in the markets at issue. Our approval of these agreements, however, remains subject to the conditions that we attached to our earlier approval of the fuel-related fare increases in Order 96-12-32, December 24, 1996. These include the requirement that direct-service normal economy fares shall be no higher than the Department's applicable regulatory ceilings, and that each carrier, when filing tariffs implementing the agreement, must provide a comparison of its proposed normal economy fare against the Department's SFFL base levels. These conditions remain in force, and apply equally and by reference to our approval here.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find that the following resolutions, which are incorporated in the agreements in Dockets OST-97-2111 and OST-97-2139 and which have direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject to conditions previously imposed:

<u>Docket</u>	<u>IATA Resolution</u>
OST-97-2111	PTC31 (Mail 851) 015b
<u>Docket</u>	<u>IATA Resolution</u>
OST-97-2139	PTC31 (Mail 855) 010g

2. These agreements are a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of an antitrust immunity is mandatory under the Code.

Order 85-5-32 contemplates that the products of the fare and rate

conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreements in Dockets OST-97-2111 and OST-97-2139 as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

**ACCORDINGLY,**

We approve and grant antitrust immunity to the agreements contained in Dockets OST-97-2111 and OST-97-2139, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion.

**By:**

Paul L. Gretch  
Director, Office of International Aviation

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